IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

C. THOMAS ABBOTT, III,

Appellant,

v.

WILLIAM K. ABBOTT,

Respondent.

DOCKET NUMBER WD76525

MISSOURI COURT OF APPEALS WESTERN DISTRICT

DATE: December 17, 2013

APPEAL FROM

The Circuit Court of Boone County, Missouri The Honorable Christine Carpenter, Judge

JUDGES

Division Three: Mitchell, P.J., and Hardwick and Witt, JJ.

CONCURRING.

ATTORNEYS

Ira M. Berkowitz St. Louis, MO

Attorney for Appellant,

Steven Faber Columbia, MO

Attorney for Respondent.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

C. THOMAS ABBOTT, III,)	
	Appellant,)	
v.	TT · · · · · · · · · · · · · · · · · ·)	OPINION FILED:
WILLIAM K. ABBOTT,)	December 17, 2013
)	
	Respondent.)	

WD76525 Boone County

Before Division Three Judges: Karen King Mitchell, Presiding Judge, and Lisa White

Hardwick and Gary D. Witt, Judges

Appellant, C. Thomas Abbott, III, appeals the circuit court's denial of his motion to revive a judgment he previously obtained against Respondent, William K. Abbott, arguing essentially that the circuit court misapplied the law governing judgment revival motions. Because Appellant's motion to revive was filed within the ten-year period of limitation applicable to revival motions, the circuit court erred in denying Appellant's motion.

REVERSED AND REMANDED WITH INSTRUCTIONS.

Division Three holds:

- 1. Rule 74.09 plainly states that the only requirement for reviving a judgment is the timely filing of a motion to revive.
- 2. A motion to revive is timely filed if filed within ten years of either the original judgment or the last revival.
- 3. The presumption supplied in section 516.350.1 that a judgment is satisfied after ten years does not impose a due diligence requirement on a person seeking revival.

4. Here, because the revival motion was timely filed, the court should have granted the motion.

Opinion by: Karen King Mitchell, Presiding Judge

December 17, 2013

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.